

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DALE FRANCIS,)	
)	Case No. 1:04CV229
Plaintiff,)	
)	
vs.)	Judge Ann Aldrich
)	
PROTECTION ONE ALARM MONITORING,)	
INC.,)	
)	
Defendant.)	<u>ORDER</u>

In this breach of contract action, plaintiff Dale Francis (“Francis”) seeks compensation for fire damage to his business premises. Francis alleges that said damage was exacerbated by a malfunction in the alarm installed and maintained on the premises by defendant Protection One Alarm Monitoring, Inc. (“Protection One”). On June 2, 2004, the court granted leave to intervene under Federal Rule of Civil Procedure 24 to Fulcrum Insurance Company (“Fulcrum”), an insurer of the premises at issue (Docket No. 15). On January 6, 2005, Protection One filed a motion for summary judgment or for default judgment on the counterclaim contained in its Amended Answer (Docket No. 32). Although Fulcrum has submitted a brief in opposition to summary judgment (Docket No. 37), Francis has filed no response to the motion.

As Francis has failed to oppose the motion for default judgment within the time provided by the Federal Rules of Civil Procedure and the Local Rules, the court finds that entry of a default judgment is appropriate. Judgment will be entered in favor of Protection One on its counterclaim for indemnification against Francis. A

hearing is set for **June 22, 2005 at 11:30 am in Chambers 17B** for the purpose of entering said judgment and determining the amount of damages, if any, to be assessed against Francis. All parties are ordered to submit briefs to the court by June 10, 2005 regarding the remaining issues to be resolved in the case, and the status of Protection One's additional arguments for summary judgment.

IT IS SO ORDERED.

s/Ann Aldrich
ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: May 25, 2005